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SUBJECT: PRO-GOVT CONGRESSIONAL MAJORITY FLEXES MUSCLES

REF: QUITO 3081

1. Summary: In a marathon session November 25, the new, pro-government legislative majority bypassed President of Congress Guillermo Landazuri's programmed agenda and elected Jorge Montero second vice president. It then replaced the members of the Constitutional Tribunal (TC) and the Supreme Electoral Tribunal (TSE), an attack on the Social Christian Party, which before had controlled the TC and heavily influenced TSE decisions. Both moves drew fire from the now-minority opposition. End Summary.

2. On November 25, the new Congressional majority (SP, PRE, PRIAN, MPD-PSE, DP and independents) elected Jorge Montero (CFP) as the second vice president of Congress. The vote tally showed 55 votes in favor, 32 abstentions and one vote for another candidate. Montero will hold this post, vacant for nearly two years, only until January 2005, when all Congressional leadership positions turn over. This vote followed the majority's earlier procedural motion to "appeal" Guillermo Landazuri's leadership of the session, thus sidelining the Democratic Left (ID) leader and allowing changes to the day's legislative agenda.

3. Going well past midnight, the new majority revamped the TC's and TSE's membership. They cited as grounds for the TC restructuring the fact that in March 2003, its members were approved in a block, an unconstitutional act. The TC changes dealt a blow to PSC, which lost control of the institution. Of the seven members removed (from nine total), five, including the president, were PSC. The others were from Pachakutik and ID. PSC-affiliated court members earlier had ruled against the D'Hondt method of legislative seat allocations, harming small party representation and earning it the ire of Ecuador's numerous minority institutions. The newly elected TC judges will hold their posts until January 2007.

4. During the session, opposition (PSC, ID and Pachakutik) deputies fought a procedural defense, claiming that a "political trial", not a resolution, was required to revamp court membership (the former requires a two-thirds vote, the latter, only a majority). Sitting TC judges shared this opinion, claiming there was no legal grounds for removal by resolution.

5. After the fact, opposition-affiliated politicians and business leaders protested loudly. Ex-TC President Oswaldo Cevallos denounced the replacement of TC and TSE members as illegal, threatening to file complaints with international human rights courts. Close Embassy contact Luis Fernando Torres, a PSC deputy, purportedly claimed that Free Trade Agreement concerns were behind the TC purge (the TC will rule on its constitutionality), but offered few details. Business leader Blasco Penaherrera claimed the reorganization was unconstitutional and akin to a coup d'etat. Labor and the indigenous differed in opinion, with FEINE, FENOCIN, and FUT supporting the court putsch.

6. According to media accounts, the new majority also hopes to elect a new attorney general, comptroller general and human rights ombudsman, possibly in January 2005. To elect a new AG, 51 votes are needed, while 67 are needed for the other two posts. Currently the majority has a base of 54 votes. In its drive to reach 67, the majority hopes soon to convert Pachakutik, currently controlling 10 votes.

COMMENT

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7. The new majority in Congress seems intent on seeking revenge against the PSC and, to a lesser extent, ID. Parties of all stripes had railed against the Social Christians for its alleged control of Ecuador's highest courts. These latest maneuvers thus come as no surprise. The grounds cited to purge the TC are dubious, however, as our glance through Ecuador's constitution shows no distinction between voting on individuals and candidate slates. But in "pick and choose the law to apply" Ecuador, this too is no surprise.

KENNEY